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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,914	02/04/2004	Gaston Glock	HPBC C-95A	3481
23474	7590	06/20/2007	EXAMINER	
FLYNN THIEL BOUTELL & TANIS, P.C.			CHAMBERS, TROY	
2026 RAMBLING ROAD			ART UNIT	PAPER NUMBER
KALAMAZOO, MI 49008-1631			3641	
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06/20/2007	PAPER			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/771,914	GLOCK, GASTON
	<b>Examiner</b>	<b>Art Unit</b>
	Troy Chambers	3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1)  Responsive to communication(s) filed on \_\_\_\_.
- 2a)  This action is **FINAL**.                            2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4)  Claim(s) 7-18,20,22-26 and 29-33 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_ is/are allowed.
- 6)  Claim(s) 7-18, 20, 22-26, 29-33 is/are rejected.
- 7)  Claim(s) \_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_ is/are; a)  accepted or b)  objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some \* c)  None of:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5)  Notice of Informal Patent Application
- 6)  Other: \_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the manner in which the weapon is placed in the activated/deactivated state must be shown or the feature(s) canceled from the claim(s).<sup>1</sup> No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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<sup>1</sup> The specification defines the activated state as the unlocking of an electromechanical locking mechanism which the specification admits is not shown.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 7-15, 17, 1820, 22-26 and 29-33 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, the neither the drawings nor the written specification describe how or in what manner the weapon is placed in the active state or deactivated as required in claims 7, 20, and 29. The examiner can find no disclosure whatsoever that describes the means by which a gun is enabled or disabled based on the authentication of the user. One having ordinary skill in the art would have to engage in undue experimentation to make and/or use applicant's claimed device which requires the activating and deactivating of a weapon.

4. Claims 26 and 31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, claim 26 requires either the name or picture of the authorized user to be displayed on an indicator of the

identification unit. However, the specification does not describe how or in what manner this function is achieved. Merely pushing a function key does not result in the display of a picture or name of user. How does the identification unit know which user is present? Is the data stored somewhere in a processor's memory?

5. Claim 30 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, claim 30 recites subject matter directed the avoiding of an interfering signal wherein the strength of the received signal includes the field strength of the potential interfering signal. There is no such disclosure in either the original specification or drawings.

#### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **The following rejections have been applied as the claims can best be understood in view of the objections/rejections cited above.**

8. Claims 7-11, 13 and 14, 17, 18, 20, 22, 29 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 9804880 issued to Reiner (equivalent U.S. Patent 6510642 issued to Reiner will be used in the rejection). Reiner discloses a method of controlling the use of a weapon 4.

9. With respect to claim 7, Reiner discloses transmitting from an ID unit 19 (unit 19 is a watch that is separate from the weapon as shown in Figs. 1 and 4) a signal that includes an activation code 30 (col. 10, ll. 1-4) or may be un-coded (col. 10, ll. 57-62) and a continuous signal (ultrasonic signal sent by distance meters 37 as discussed in Fig. 2 and col. 11, ll. 33-52); the weapon 4 has a transmission/receiving unit 18 that receives via an aerial 31 the ID code 30 sent by the ID unit 19 via aerial 31 (Fig. 2); the gun 4 receiver 18 upon receipt of the correct ID code 30 places the weapon in the active state (col. 10, line 5 to col. 11, line 3); after the weapon is in the active state the distance meters continue to measure the ultrasonic signals sent to the weapon; if a pre-determined distance is exceeded, the weapon will not activate release element 15 (col. 11, ll. 4-53).

10. With respect to claim 8, refer to col. 10, ll. 5-14.

11. With respect to claims 9 and 10, refer to col. 18, ll. 50-55.

12. With respect to claim 11, refer to col. 27, ll. 30-34, disclosing a sensor in the form of an optical light barrier.

13. With respect to claims 13 and 14, refer to col. 9, ll. 32-37, which disclose the capability of the device to use radio signals.

14. With respect to claim 17, the continuous signal is not disclosed as being coded. In any event, Reiner provides for both coded and uncoded signals (col. 10, ll. 56-62).

15. With respect to claim 18, Reiner discloses that the ID devices are capable of being provided with control information. (Col. 15, ll. 30-34).

16. With respect to claim 20, refer to Fig. 2 and 4 and the rejection of claim 7.

17. With respect to claims 22 and 32, Reiner discloses the use of radio signals (col. 2, ll. 51-56 and col. 9, l' 32-37).

18. Claims 7-10, 12-15, 18, 29, 30, 31 and 33 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Funfgelder.

***Claim Rejections - 35 USC § 103***

19. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

20. Claims 12 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reiner in view of WO 01/18332 issued to Funfgelder. Reiner discloses a method of controlling the use of a weapon as described above. However, Reiner does not disclose the wristband features of claims 12, 24 and 28. Funfgelder discloses such features. Specifically, Funfgelder discloses a bracelet similar to a watch that has a continuous sensor wire with contact surfaces in the clasp of the band. If the band is cut or the clasp is opened, then a release previously issued by the sensor is reset. The legitimate owner of the weapon can deactivate it at any time by opening the clasp of the wristband. At the time of the invention, one of ordinary skill in the art would have found it obvious to provide the weapon control system of Reiner with the wristwatch disabling features of Funfgelder. The suggestion/motivation for doing so would have been to allow the user of the firearm to disable the weapon in the event that an unauthorized individual gained access to it in the presence of the user.

21. Claims 15, 25 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reiner in view of the applicant's admissions in the specification and applicable case law. Reiner

discloses the claimed invention as discussed above except for the limitations requiring infrared (claim 15) and ultrasonic signals (claim 15). The applicant expressly admits that such signals are known in the art ([0004]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of Reiner with the various signals claimed and admitted by applicant to be prior art since the Examiner takes Office Notice of the equivalence of radio signals, infrared and ultrasonic signals for their use in the firearm security art and the selection of any one of these known equivalents to communicate would be within the level of ordinary skill in the art.

22. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reiner in view of US 6260300 issued to Klebes. Reiner discloses a security system as discussed above with the exception of the wake up circuit. Klebes discloses such a circuit (col. 3, ll. 61-65). At the time of the invention, one having ordinary skill in the art would find it obvious to provide the security system of Reiner with the wake up circuit of Klebes. The suggestion/motivation for doing so would have been to provide the capability to limit power consumption when the device is not in use.

***Response to Arguments***

23. Applicant's arguments filed 05/14/2007 have been fully considered but they are not persuasive. Applicant provides a lengthy argument discussing whether the ranging signals of Reiner and Funfgelder are constant. At this time the examiner cannot see the relevancy of this argument. In both the Reiner and Funfgelder disclosures, once the gun user is authorized, the only way to deactivate the weapon is to take it out of range of the user. Arguments and claimed subject matter directed to "an interfering transmitter" are irrelevant because the ranging signals

of both prior art devices are coded. The transmitter would be useless because it would not possess the proper codes.

24. With respect to the application of Funfgelder, applicant makes an argument for the patentability of claim 1. Claim 1 is no longer pending. Furthermore, applicant argues, "Hence, this system also requires continuous receipt of a coded signal and proper distance, and thus, differs from Applicant's claimed invention which does not require a continuous coded signal." However, applicant's analysis is backwards. To determine patentability, the prior art is compared to the claims to determine what is missing from the prior art. Applicant has compared the claims to the prior art to determine what is missing from the claims. Therefore, applicant has not specifically pointed out the differences between the prior art and the claimed subject matter as required by 37 C.F.R. 1.111(b). In any event, the coded signal is the activation signal while the distance-measuring signal is not coded. The translated specification does not require a coded distance-measuring signal.

25. With respect to Reiner, col. 11, ll. 35-52 clearly describe the use of distance meters 37 that send out "ultra-sonic signals" or "circuitry devices or sequencing processes" that rely on radiation intensity, frequency cycle, interference or the like to determine distance between the transmitter/receiver "constantly or periodically."

### *Conclusion*

26. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action

after the filing of a request for continued examination and the submission under 37 CFR 1.114.

See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action..

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Chambers whose telephone number is (571) 272-6874 between the hours of 7:00 a.m. to 3:30 p.m., M-F. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone, can be reached at (571) 272-6873.

Troy Chambers  
Primary Examiner  
Art Unit 3641

TC  
30 May 2007